

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

SAN MIGUEL HOSPITAL CORPORATION,
d/b/a ALTA VISTA REGIONAL HOSPITAL, on
behalf of itself and all others similarly situated,

Plaintiff

v.

Johnson & Johnson, *et al.*,

Defendants.

No. 1:23-cv-00903-KWR/JFR

**STIPULATED MOTION TO SET BRIEFING SCHEDULE AND PAGE LIMITS FOR
MOTIONS TO DISMISS PLAINTIFF’S FIRST AMENDED COMPLAINT**

Plaintiff San Miguel Hospital Corporation, d/b/a Alta Vista Regional Hospital (“Plaintiff”), by and through its undersigned counsel, and Defendants that were named in Plaintiff’s original Complaint,¹ by and through their undersigned counsel, hereby stipulate and move the Court as follows:

WHEREAS, on March 18, 2024 Plaintiff filed a corrected First Amended Complaint (“Plaintiff’s First Amended Complaint”);

¹ The Defendants named in Plaintiff’s original Complaint that are joining this stipulation are: Johnson & Johnson and Janssen Pharmaceuticals, Inc. (f/k/a Ortho-McNeil-Janssen Pharmaceuticals, Inc. f/k/a Janssen Pharmaceutica Inc.); specially appearing Noramco, LLC (improperly named Noramco, Inc.); specially appearing Grünenthal USA, Inc.; specially appearing Grünenthal Pharmaceuticals, Inc.; Allergan Finance, LLC; Allergan Sales, LLC; Allergan USA, Inc.; AbbVie Inc.; AmerisourceBergen Drug Corporation; Xcenda L.L.C.; Cardinal Health, Inc.; H. D. Smith, LLC (f/k/a H. D. Smith Wholesale Drug Co.); McKesson Corporation; CVS Pharmacy, Inc.; CVS Rx Services, Inc.; CVS Orlando FL Distribution, L.L.C.; Walmart Inc.; Walgreens Boots Alliance, Inc.; Walgreen Co.; and Walgreen Eastern Co., Inc.

All Defendants expressly reserve, and do not waive, any and all defenses pertaining to personal jurisdiction. Out of an abundance of caution and in order to preserve certain defenses, some named defendants have not joined this stipulation, but the parties agree that the briefing schedule set forth in this stipulation will apply to all defendants named in Plaintiff’s First Amended Complaint.

WHEREAS, Plaintiff and the Defendants named in the original Complaint previously stipulated to a briefing schedule for motions to dismiss Plaintiff's original Complaint, which this Court entered on November 13, 2023 (ECF No. 61);

WHEREAS, Defendants filed motions to dismiss the original Complaint pursuant to that stipulated schedule on January 19, 2024;

WHEREAS, the parties have agreed there is good reason to extend the deadline for Defendants to answer, move, or otherwise respond to the First Amended Complaint; and

WHEREAS, the parties have agreed that it is in the interest of the parties and Court to set a coordinated briefing schedule for Defendants' motions to dismiss Plaintiff's First Amended Complaint;² and

WHEREAS, as in other litigation related to prescription opioids in other federal courts, Defendants will endeavor to file consolidated motions and other papers where possible, including but not limited to briefing by "Industry Group" (i.e., Manufacturer Defendants, Distributor Defendants, and Pharmacy Defendants);

NOW, THEREFORE, Plaintiff and the undersigned Defendants hereby stipulate and move the Court for entry of its Order as follows:

1. Each Industry Group shall file its motion to dismiss the First Amended Complaint by May 2, 2024, limited to forty (40) pages per motion. Any of those pages may be allocated to a motion filed collectively by all Defendants.³

² Plaintiff's First Amended Complaint named for the first time several new defendants, many or all of whom have not yet been served and/or entered appearances in this matter. These newly-added defendants are not presently parties to this stipulation. Plaintiff nevertheless agrees that other newly-added defendants may choose to, but are not required to, use these dates as the operative deadlines should they also file a motion to dismiss as part of an industry group or on jurisdictional grounds pursuant to Paragraph 4.

³ For example, if Defendants file a collective motion of 15 pages, each Industry Group may file its own motion of no more than 35 pages.

2. Plaintiff shall file its oppositions to Defendants' motions by June 17, 2024, limited to forty (40) pages per opposition, not to exceed 120 pages in total.

3. Each Industry Group shall file its reply in support of its motion by July 17, 2024, limited to twenty (20) pages per reply. Any of those pages may be allocated to a reply filed collectively by all Defendants.

4. Any Defendant also may file a supplemental motion to dismiss the First Amended Complaint related to arguments unique to that Defendant (e.g., jurisdictional defenses). Briefing related to such Defendant-specific motions will be subject to the above briefing schedule. Each motion and opposition shall be limited to ten (10) pages and each reply shall be limited to five (5) pages.⁴

5. All defenses and objections to the Court's jurisdiction and under Fed. R. Civ. P. 12 are expressly reserved.

6. A proposed Order agreed to by all counsel is simultaneously submitted to the Court.

Dated: March 21, 2024

Respectfully Submitted:

FOR PLAINTIFF:

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⁴ Defendants anticipate that the number of such Defendant-specific motions will be limited.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of March, 2024, I filed the foregoing *Stipulated Motion* electronically through the CM/ECF system, which caused all parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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